

LAW OFFICES
WILLIAMS & CONNOLLY^{LLP}

JOHN E. SCHMIDTLEIN
(202) 434-5901
jschmidlein@wc.com

680 MAINE AVENUE SW
WASHINGTON, DC 20024
(202) 434-5000
WWW.WC.COM

EDWARD BENNETT WILLIAMS (1920-1988)
PAUL R. CONNOLLY (1922-1978)

August 29, 2024

Via Electronic Case Filing

Molly C. Dwyer
Clerk of Court
United States Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *FTC, et al. v. Amazon.com, Inc. v. American Booksellers Ass'n, Inc.*, No. 24-3835, Response to ABA's Rule 28(j) Letter

Dear Ms. Dwyer:

On August 26, 2024, Appellant American Booksellers Association (“ABA”) submitted a Rule 28(j) letter informing the Court of the D.C. Court of Appeals’ decision in *District of Columbia v. Amazon.com, Inc.*, __ A.3d __, 2024 WL 3893698 (D.C. App. Aug. 22, 2024), and the Washington Supreme Court’s decision in *Greenberg v. Amazon.com, Inc.*, __ P.3d __, 2024 WL 3711070 (Wash. Aug. 8, 2024). Neither decision is relevant to whether ABA is entitled to intervene in this case. Those opinions do not address either mandatory or permissive intervention, and had no occasion to compare monopsony and price-discrimination claims—like the ones that ABA hopes to raise—with monopolization theories similar to those articulated by Plaintiffs. In short, the opinions that ABA identifies do not change the fact that ABA impermissibly seeks to inject new and unrelated issues and theories into this case after months of litigation between the existing parties. See Dkt. 28.1, Brief of Defendant-Appellee Amazon.com, Inc., at 12-28.

Respectfully submitted,

/s/ John Schmidlein

John E. Schmidlein
Counsel for Defendant-Appellee
Amazon.com, Inc.